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V8

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY, DOCKET NO.
09/102,788	06/23/99	MENGAL	8578-312-1010

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ZEMAN, M. EXAMINER

ART UNIT
1213

PAPER NUMBER

6
09/29/99

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/102,788

Applicant(s)

MENGAL ET AL.

Examiner

Mary K Zeman

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 1998 and 10 December 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 9, 11 and 14-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 11 and 14-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☒ received in Application No. (Series Code / Serial Number) 08/553,621.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

Art Unit: 1643

DETAILED ACTION

The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1643, Examiner Mary K Zeman.

Claims 1-5, 8, 9, 11, and 14-32 are pending in this application. Claims 6, 7, 10 and 12-13 were canceled by preliminary amendment. The preliminary amendments filed 6/23/98 and 12/10/98 have been entered. The IDS filed 12/14/98 has been entered and considered.

Drawings

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 08/553,621, filed on 11/28/95. This parent application has been thoroughly reviewed by the Examiner, including the declaration by Dr. Mengal.

Art Unit: 1643

Specification

The abstract of the disclosure submitted with the preliminary amendment of 6/23/98 does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(1). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

Claims 17 and 22-24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 22-24 recite further method steps to the methods of the independent claims, however it is not clear wherein the original method the additional limitations should be inserted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-5, 8, 9, 11 and 14-32 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Pare (US Patent 5,884,417).

Art Unit: 1643

The claims are drawn to methods of solvent-free extraction of natural products from biological materials using microwave radiation, reduced pressure, and recovery of the product. An apparatus for carrying out said methods is also claimed.

Pare, having priority under 35 U.S.C. 120 to a filing date of February 1993, discloses and claims the same methods and apparatus. See claims 1, 3, and 11, for example. Example 2, cols 11-12 sets forth the extraction of natural products from fresh sage leaves.

Conclusion

No claim is allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary K Zeman whose telephone number is (703) 305-7133. The examiner can be reached between the hours of 7:30 am and 5:00 pm Monday through Thursday, and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, Donna Wortman, Primary Examiner, can be reached on (703) 308-1032.

The fax number for this Art Unit is (703) 305-7401.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

mkz
September 23, 1999


DONNA WORTMAN
PRIMARY EXAMINER